

Hydro Tasmania Submission to the independent review of Tasmania's Right to Information (RTI) Framework

<i>Right to Information Act 2009 (Tas) (the Act)</i>		
Section		Feedback
s 5	Interpretation	<p>'<u>Public Interest</u>' is not defined in the Act.</p> <p>We suggest <i>public interest</i> be defined to reduce the reference to Schedule 1 of the Act.</p>
		<p>'<u>Competitive disadvantage</u>' referred to in sections 37(1)(b) and 38(a)(ii) is not defined.</p> <p>We suggest <i>competitive disadvantage</i> be defined for clarity.</p>
		<p>'<u>General details</u>' referred to in section 13(8) is not defined.</p> <p>We suggest a definition of <i>general details</i> would assist public authorities with this requirement.</p>
		<p>'<u>Being helped</u>' referred to in section 19(2) is not defined.</p> <p>We suggest the Act be amended to define or clarify the intended meaning of <i>being helped</i>, and suggest that such a definition should not be overly burdensome on public authorities.</p>
s 15 (1)	Time within which applications for assessed disclosure of information are to be decided	<p>Often multiple applications are received from an applicant at the same time, and the 20 working days to process applications in such instances is insufficient. Section 19 – <i>Requests may be refused if resources unreasonably diverted</i> – would be unlikely to apply in instances where multiple applications have been received at once.</p> <p>We suggest the Act be amended to consider multiple applications from the same applicant received simultaneously, and either provide a longer timeframe for multiple applications to be processed, or allow public authorities to consider the multiple applications received from the one applicant as a single application.</p>

s 22 (2) (d)	Reasons to be given if decision involves consideration of the public interest test	<p>Stating the public interest considerations for the application of exemptions is often complex and onerous.</p> <p>We suggest the Act be amended to require public interest considerations only if requested by the applicant, and an additional 5 working days be provided to the Public Authority to respond to such a request.</p>
s 48 (1)	Decisions of Ombudsman – adverse decisions to third parties	<p>Section 48 (1) requires the Ombudsman to make a draft decision in respect of a review available to a public authority and seek their input prior to finalising the decision. However, if the Ombudsman intends to make a decision that is adverse to a third party, the Ombudsman is not required by the Act to make a draft of the decision available to the third party and seek their input prior to finalisation.</p> <p>We suggest the Act be amended to also require the Ombudsman to make draft decisions that are adverse to third parties available to the third party and seek their input prior to finalisation of the decision.</p>
s 52	Protection in respect of criminal offences under other Acts	<p>This section provides protection from criminal offences when information was required or permitted to be disclosed pursuant to the Act.</p> <p>It is unclear whether this protection would extend to criminal offences in jurisdictions other than Tasmania or at a Commonwealth level.</p> <p>We suggest the Act be amended to make this clear where possible.</p>